

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	:
	:
BERNARD L. MADOFF INVESTMENT	:
SECURITIES LLC,	:
	:
Debtor.	:
	:
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PERTAINS TO THE FOLLOWING CASE:	:
	:
IRVING H. PICARD, Trustee for the Liquidation	:
of Bernard L. Madoff Investment Securities LLC,	:
	:
Plaintiff,	:
	:
-v-	:
	:
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:
ASCOT FUND LTD., GABRIEL CAPITAL	:
CORPORATION,	:
	:
Defendants.	:
	:
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Adv. Proc. No. 08-01789 (SMB)  
SIPA LIQUIDATION  
(Substantively Consolidated)

Adv. Proc. No. 09-1182 (SMB)

**DECLARATION OF JUDITH A. ARCHER IN OPPOSITION TO  
TRUSTEE'S MOTION *IN LIMINE* NUMBER 4 TO EXCLUDE  
DOCUMENTS NOT PRODUCED IN DISCOVERY**

1. I am a member of the firm of Norton Rose Fulbright US LLP, counsel to Ralph C. Dawson, as Receiver for Defendant Ascot Partners, L.P. ("Ascot Partners"), and Defendant Ascot Fund Limited ("Ascot Fund") in the above-captioned actions. I submit this declaration in support of Defendants' opposition to the Trustee's Motion *in Limine* Number 4 to exclude exhibits not produced in discovery.

2. Attached hereto as Exhibit A is a true and correct copy of the Initial Expert Report of Dr. Steve Pomerantz, dated March 20, 2015.

3. Attached hereto as Exhibit B is a true and correct copy of relevant excerpts of the deposition of J. Ezra Merkin dated November 18, 2010, in *Calibre Fund, LLC v. Merkin, et al.*, Arbitration No. 13 148 U 00384 09.

4. Attached hereto as Exhibit C is a true and correct copy of relevant excerpts of the deposition of J. Ezra Merkin dated June 22, 2011, in *Straus v. Merkin*, Arbitration No. 13 148 Y 01800 10.

5. Attached hereto as Exhibit D is a true and correct copy of relevant excerpts of the deposition of J. Ezra Merkin dated August 11, 2011, in *Weiss v. Merkin*, Arbitration No. 13 148 U 01803 10.

6. Attached hereto as Exhibit E is a true and correct copy of relevant excerpts of the deposition of J. Ezra Merkin dated December 4, 2009, in *Wiederhorn v. Merkin, et al.*, Arbitration No. 13 148 Y 02937 08.

7. Attached hereto as Exhibit F is a true and correct copy of relevant excerpts of the deposition of Dr. Steve Pomerantz in the above-captioned action, dated July 8, 2015.

8. I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 10, 2017

/s/ Judith A. Archer  
Judith A. Archer